

STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY AND FIRE PROTECTION
EMERGENCY EQUIPMENT RENTAL AGREEMENT
CAL FIRE-294 (05/05) Page 2 of 4

**GENERAL CLAUSES ATTACHED TO
EMERGENCY EQUIPMENT RENTAL AGREEMENT FORM CAL FIRE-294**

Since the equipment needs of the State and availability of Vendor's equipment during an emergency incident cannot be determined in advance, it is mutually agreed that, upon request of the State, the Vendor shall furnish the equipment listed heron to the extent the Vendor is willing and able at the time of order. At time of dispatch, an Incident Order Number and Request Number will be assigned. Vendor must furnish this number upon arrival and check in at the incident. When such equipment is furnished to the State, the following provisions shall apply:

CLAUSE 1. Condition of Equipment - All equipment furnished under this agreement must be in good working order and safe to operate. The State reserves the right to reject equipment which is not in safe and operative condition. No payment will be made for rejected equipment.

CLAUSE 2. Time Under Hire - The time under hire shall start at the time agreed upon when equipment is ordered by the State and end by notification to the Vendor by the State that equipment is released back to its point of hire, except as provided in Clause 8.

CLAUSE 3. Transportation of Equipment - Equipment will be transported at State expense from point of hire to the site of work and return, except as provided in Clause 8.

CLAUSE 4. Operating Supplies - Operating supplies include fuel, oil, filters, lube/oil changes. Even though the agreement may specify that all operating supplies are to be furnished by the Vendor (wet), the State may, at its option, elect to furnish such supplies when necessary to keep the equipment operating. The cost of such supplies will be deducted from payment to the Vendor.

CLAUSE 5. Repairs - Repairs to equipment shall be made and paid for by the Vendor. The State may, at its option, elect to make such repairs when necessary to keep the equipment operating. The cost of such repairs will be deducted from payment to the Vendor.

CLAUSE 6. Timekeeping - Time will be recorded by the State Agent responsible for ordering and/or directing use of each piece of equipment. Time will be recorded as follows:

- a. Hourly Rate - to nearest quarter hour.
- b. Daily Rate - by calendar day except for first and last day, this will be recorded to nearest hour.
- c. Mileage Rate - to nearest mile.

CLAUSE 7. Payments

a. Rates of payments: Rates for equipment hired with operator(s) include all operator(s) expenses except those items provided by the State under Clause 9. Payment for equipment and operator(s) furnished will be at rates specified and, except as provided in Clause 8, shall be in accordance with the following:

- (1) Work Rates (column 11): Shall apply when equipment is under hire as ordered by the State and on shift, including relocation of equipment under its own power.
- (2) Special Rates (column 12) : Shall apply as specified.
- (3) Guarantee: For each calendar day that equipment is under hire at least 8 hours, the State will pay not less than the amount shown in Column 13. If equipment is under hire for less than 8 hours during a calendar day, the amount earned for that day will be not less than one-half the amount specified in Column 13. The guarantee is not applicable to equipment hired under the Daily Rate. Equipment under transport is time under hire and compensated through the Guarantee. If equipment is transported under its own power, it is compensated under the Work Rate.
- (4) Daily Rate (column 11) : Payment will be made on basis of calendar days. For fractional days at the beginning and ending of time under hire, payment will be base on 50 percent of the Daily Rate for periods less than 8 hours.

b. Method of Payment: Lump-sum payment will normally be processed at the end of the emergency incident. Payment for each calendar day will be made for (1) actual units ordered and performed under Work or Daily and/or Special Rates or (2) the guarantee earned, whichever is the greatest amount.

CLAUSE 8. Exceptions

- a. No further payment under Clause 7 will accrue during any period that equipment under hire is not in a safe or operable configuration or when Vendor furnished operator(s) is (are) not available.
- b. If the Vendor withdraws equipment and/or operator(s) prior to being released by the State, no further payment under Clause 7 shall accrue and the Vendor shall bear all costs of returning equipment and/or operator(s) to the point of hire.
- c. After inspection and acceptance for use, equipment and/or furnished operator(s) that cannot be replaced or equipment that cannot be repaired at the site of work by the Vendor or by the State in accordance with Clause 5, within 24 hours, may be considered as being withdrawn by the Vendor in accordance with Paragraph b above, except that the State will bear all cost of returning equipment and/or operator(s) to the point of hire as promptly as emergency conditions will allow.

CLAUSE 9. Meals and Bedding - When an incident base or camp is established, meals and bedding for Vendor's operator(s) will be furnished without charge.

CLAUSE 10. Loss, Damage, or Destruction – Damage to hired equipment resulting from exposure to fire or from firefighting activities will be investigated by the Compensation and Claims Unit at the incident. The documented damage will be addressed through appropriate action at the incident or through the Board of Control claims process.

CLAUSE 11. Vendor's Responsibility - The parties intend that Vendor be an independent vendor and Vendor and its employees are not agents or employees of State; Vendor shall indemnify State against all liability, loss, damage, or expense caused by reason of acts or neglect of Vendor, his/her employees, or agents in connection with the performance of the Agreement; Vendor shall furnish, at its own expense, public liability and Workers Compensation insurance. Theft, fire, and other insurance Vendor deems necessary for its protection shall be at Vendor's expense.

Vendor certifies under the penalty of perjury under the laws of the State of California to have, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 and California Code of Regulations, Title 2, Section 8103.

CLAUSE 12. Deductions - Unless specifically stated elsewhere in this agreement the cost of any commissary items, supplies, materials, or services provided for the Vendor by the Sate will be deducted from the payment to the Vendor.

CLAUSE 13. Personal Protective Equipment - Operators employed by Vendor shall be provided with safety equipment (hard hat, globes and goggles) by Vendor. Long sleeved shirts or jackets must be worn with sleeves rolled down while working. Operators shall be issued additional person safety equipment when required by the State. Said equipment should be turned in on release from the emergency incident. Cost of safety equipment not returned will be deducted from final payment to Vendor.

CLAUSE 14. Subject to CAL FIRE Policies and Procedures. Vendor agrees that this contract is subject to the policies and procedures contained in the following CAL FIRE Handbook sections and included subsections: 3833, 3934, and 7761. Noncompliance with the policies and procedures as defined in section 7761.2.8.9 will be subject to the actions by CAL FIRE described in that section, which include placement at the end of roation, removal from list(s) for a specified period of time, removal from list(s) for the remainder of the year, and possible civil and/or criminal action where authorized by law.

CLAUSES INCORPORATED BY REFERENCE

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text.

VENDOR agrees to these General Clauses.

Vendor Initials

Date

SIGNATURE PAGE

Attached to and made a part of the Emergency Equipment Rental Agreement CAL FIRE-294 and OF-294

EERA NUMBER: _____

VENDOR agrees that the rates shown on the accompanying Emergency Equipment Rental Agreement are acceptable as full compensation for services rendered.

VENDOR: _____

Business Name (Print): _____

Name of Authorized Agent (Print): _____

Signature of Authorized Agent: _____

Title _____ Date _____

VENDOR has been provided with a copy of CAL FIRE Hired Equipment Policies, and agrees to perform in accordance with them. VENDOR INITIALS _____

FEDERAL AGENCY (Forest Service, USDA or USDI)

Agency: _____

Subdivision (Forest, District, Park, etc.) _____

Name of Authorizing employee (print)

Signature _____

Title: _____ Date: _____

CALIFORNIA DEPARTMENT OF FORESTRY & FIRE PROTECTION

Administrative Unit _____

Name of Authorizing employee (print)

Signature _____

Title: _____ Date: _____

NOTE: Equipment covered by this Agreement may be under hire by CAL FIRE, USDA Forest Service, or Department of Interior. When equipment covered by this Agreement is under hire by one of the Federal agencies, the General Provisions of their OF-294 apply. When equipment covered by this Agreement is under hire by the California Department of Forestry and Fire Protection, their "General Clauses" and Supplement General Provisions" apply. A given piece of equipment can be under hire to only one agency at a time.